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SETTING AND ENFORCING SPEED LIMITS ON PRIVATE ROADS

By: James J. Fazzalaro, Principal Analyst

You asked if a municipality can establish, post signs regarding, and enforce speed limits on (1) private roads generally and (2) private roads within a special tax district in the municipality.

The Office of Legislative research is not authorized to give legal opinions and this report should not be considered one.

SUMMARY

Municipalities have both a general authority to regulate traffic and the speed of vehicles on streets within their jurisdiction and a specific authority, acting through their legal traffic authority, to set speed limits on local roads, including private roads wholly within the municipality under their jurisdiction. This authority does not appear to exclude private roads in special taxing districts. Although the law authorizing municipalities to set speed limits does not explicitly state they may post signs notifying the public of the speed limit set on a private road, this appears to be implied from language in the law that makes the owner of a private road liable for the costs of erecting speed limit signs.

Although the statutes do not explicitly state that a municipality may enforce a speed limit it sets on a private road, or for that matter on any road, there is considerable case law that addresses the question of express and implied powers. In general, the Connecticut courts have found that when a general power is conferred by law or constitution, whatever is necessary for the effective exercise of that power is, in the absence of express authority, conferred by implication.

GENERAL MUNICIPAL AUTHORITY TO ESTABLISH SPEED LIMITS

State laws give municipalities a general authority to govern the use of the streets within their respective jurisdictions (CGS Sec. 7-148(c)(6)(C)(i) and (7)(B)). This generally allows them to:

1. lay out, construct, reconstruct, alter, maintain, repair, control, operate, and assign numbers to streets, alleys, highways, boulevards, bridges, underpasses, sidewalks, curbs, gutters, public walks, and parkways within their jurisdiction;

2. regulate and prohibit, in a manner not inconsistent with the general statutes, traffic, the operation of vehicles on streets and highways, off-street parking and on-street residential neighborhood parking areas in which on-street parking is limited to residents of a given neighborhood, as determined by the municipality; and
3. regulate the speed of vehicles, subject to the provisions of the general statutes relating to the regulation of the speed of motor vehicles and of animals.

SPECIFIC AUTHORITY REGARDING THE ESTABLISHMENT OF SPEED LIMITS

Besides the general authority conferred as noted above, state law grants a specific authority to municipalities regarding speed limits. The law prohibits operating a motor vehicle at a speed that is greater than reasonable for conditions on: (1) any public highway of the state; (2) a road of any specially chartered municipal association or any district organized under the laws for special taxing districts (Chapter 105 of the general statutes), a purpose of which is the construction and maintenance of roads and sidewalks; (3) any off-street parking area open to public use; (4) any private road on which a speed limit has been established by the municipal traffic authority according to law; or (5) any school property. The law confers on the traffic authority of any town, city, or borough the power to establish speed limits on streets, highways, bridges, in any parking areas for 10 cars or more, or "on any private road wholly within the municipality under its jurisdiction." (CGS § 14-218a) The language regarding private roads was added to the law in 1969.

Speed limits municipal traffic authorities establish for streets, highways, bridges, and parking areas become effective only after they have been submitted for and received the approval of the State Traffic Commission. Speed limits set for local private roads do not have to be submitted for commission approval. The law also requires the cost of any speed limit signs erected on a private road to be paid by the owner of the road.

Based on the wording of the statute, it appears clear that a local traffic authority can exert its authority to set speed limits to any private roads that lie wholly within the town's boundaries. This appears to be true whether the road lies within or outside of a special tax district since the reference is to private roads without any qualification. Thus the answer to your question with respect to whether a town can set a speed limit on a private road appears to be that it can as long as the road is entirely in the town. However, only the town's legal traffic authority can exercise this power.

Each municipality must have a legal traffic authority but under the law it can be any of several entities based on the town's organization. Specifically, it may be (1) the board of police commissioners in any city, town, or borough; (2) the city or town manager, the chief of police, the superintendent of police or any legally elected or appointed official or board, or any official having similar powers and duties, of any city town or borough that has no board of police commissioners, but has a regularly appointed police force; or (3) the board of selectmen of any town in which there is no city or borough with a regularly appointed police force (CGS § 14-297).

The answer to your second question concerning whether the town can erect speed limit signs on a private road also appears to be that it can. The law states that "such signs giving notice of such speed limits shall be erected as the State Traffic Commission directs." Although this wording does not explicitly state that a local traffic authority may erect signs on a private road on which it has set a speed limit, it seems to infer that this is the case in that it explicitly makes the road's owner liable for the cost of any speed limit signs that are erected on a private road. This seems to imply that a town that sets such a speed limit on a private road may post it accordingly and charge the road's owner for the costs.

ENFORCEMENT OF SPEED LIMITS ON PRIVATE ROADS

There is no explicit statement in the law authorizing local traffic authorities to enforce the speed limits they set, but this appears to be a necessary implication of the authority to set limits. There is considerable Connecticut case law supporting the idea that the power to enforce is inherent in any legally granted authority to regulate to the extent that it is necessary to accomplish the purpose of the regulation. In *Fahy v. Town of Trumbull*, the court stated that a municipal corporation is a creature of law and its powers include "those expressly conferred by constitution, statutes, or charter, powers necessarily or fairly implied in or incident to powers expressly granted,

and powers essential to the declared objects and purposes of municipality, and this enumeration of powers is exclusive.” (163 A.2d 574, 22 Conn.Supp. 105 (1960)). The court in this case also stated that the standard by which to determine whether a municipality possesses a certain power by implication is that it must be necessarily implied or incident to the powers granted, or indispensable to attainment and maintenance of its declared objects and purposes, and the test of implied power is the necessity of such power and not its convenience.

In *Hartford v. American Arbitration Association et al.*, the Connecticut Supreme Court observed that when a general power is given to a municipal officer, whatever is necessary for effective exercise of that power is, in the absence of express authority, conferred by implication. The court stated that it was “clear that this court has long been willing to imply to town officials those powers reasonably necessary to implement authority expressly delegated. It is also true, however, that such implied authority may be limited under the facts of a particular case.” (174 Conn. 479, 480 (1978)).

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